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## OUR CONSTITUTIONAL FIFTH WHEEL.

FROM the day of our national beginning, public opinion, in varying weight, has insisted upon the principle of economy in governmental administration, but the creation and continuation of unnecessary offices has gone steadily on in rising ratio. The ravenous clamor of the placemen for new spoils for the victors has prevailed unceasingly over efforts for retrenchment, in the latest instance rendering abortive the systematic, scientifically ordered, and comprehensive endeavor of President Taft and his Efficiency Commission to eliminate valueless positions and abolish duplication of duties.

Close in the wake of this practically fruitless attempt at most desirable economy, the three major political parties in 1912 inserted in their platforms declarations for the conservation of our national financial resources. It was the Progressives who promised "readjustment of the business methods of the National Government and a proper coördination of the Federal Bureaus, which will increase the economy and efficiency of the Government service, prevent duplications and secure better results to the taxpayers for every dollar expended." More boldly spoke the Republicans: "We commend the earnest effort of the Republican administration to secure greater economy and increased efficiency in the conduct of the government business. Extravagant appropriations and the creation of unnecessary offices are an injustice to the taxpayer and a bad example to the citizen." No less firm was the Democratic declaration: "We demand a return to that simplicity and economy which befits a democratic government and we demand a reduction in the number of useless offices, the salaries of which drain the substance of the people."

The Vice-Presidency of the United States would be an excellent starting point for that "reduction in the number of useless offices, the salaries of which drain the substance of the people," inasmuch as his annual salary of \$12,000 could be dis-

pensed with, as well as his office. The continuance of this more ornamental than useful officer—and more expensive than either—who was fitly and prophetically termed “His Superfluous Excellency” in the earlier days of the republic by the more democratic members of Congress,<sup>1</sup> is unquestionably “an injustice to the taxpayer and a bad example to the citizen.” Be it said with profound veneration for the fathers of the Constitution that the further existence of this place of their creation is now useless, unnecessary and uneconomical. He is as anomalous as the quill pens and snuff boxes of the Senate. If the pledges of reform by way of retrenchment are to be fulfilled, in order to give a good example to the citizen, to do justice to the taxpayer and to abolish a salary which is a sizable drain on the substance of the people, why should we not begin with the most exalted unnecessary office, instead of with the collectorship of the port of the habitat of mountain trout or the footmanship for the official equipage for the secretary of state? Why not reconstruct the Constitution so that (1) the president pro tempore of the Senate shall become the permanent presiding officer of that body, and (2) so that the secretary of state shall hold the second place in the presidential succession?

Happily this reasonable proposal for the utter demolition of the Vice-Presidency lacks novelty. The fathers of the Constitution themselves were divided about the desirability of this office and, if they could have seen through the mists of the years its demotion in value and dignity and its essential negativeness they might have opposed it unanimously. While the Vice-Presidency was created by an overwhelming majority of the Constitutional Convention, yet the reasons both for and against its establishment have, to a considerable degree, been invalidated by experience.

The framers of our fundamental law very naturally retained in it much of the structure of the government of England in its general outlines, because they were familiar with that form and had long lived under it. In all likelihood, the Vice-Presidential place was modeled after that of deputy-governor or lieutenant-

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<sup>1</sup> Bryce, *American Commonwealth*, Vol. I, p. 87.

governor as found in royal charters and in colonial practice. Under the new order of independence, the states erected new constitutions, in the earliest of which provision was made for the deputy-governor to preside in the upper house of the legislature and, in addition, to succeed to the governorship in the event of a vacancy. The second of the new state constitutions, that of South Carolina, created the office of Vice-President, as did those of New Jersey in 1776 and Delaware in 1777, while Virginia in 1776 and New York in 1777 established the wholly similar office of lieutenant-governor.<sup>2</sup> Note that the last of these was established a decade before the Constitutional Convention met. The exact prototype of the Vice-President was to be found in the lieutenant-governor of New York, who was to preside in the Senate without a vote except in case of a tie, was to succeed the governor when succession became necessary, and was, in turn, to be succeeded in the chair of president of the Senate by its president *pro tem*.<sup>3</sup> Judge Story says that because of the existence of this second office in some of the state governments at the time of the creation of the Constitution it was far from novel and that "it came, therefore, recommended by experience as a safe and useful arrangement to guard the people against the inconveniences of an interregnum in the government or a devolution of power upon an officer who was not their choice and might not possess their confidence."<sup>4</sup> Hamilton makes like comment in the *Federalist*:

"It is remarkable in this as in most other instances the objections which states made would lie against the constitutions of the states. We have a lieutenant-governor chosen by the people at large, who presides over the Senate and is the constitutional substitute for the governor in casualties similar to those which would authorize the Vice-President to execute the authorities and discharge the duties of the President."<sup>5</sup>

The draft of the Constitution submitted by the Committee on

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<sup>2</sup> Stevens, *Sources of the Constitution*, p. 81.

<sup>3</sup> Alexander Johnston, *New Princeton Review*, Sept. 1887.

<sup>4</sup> Story on the Constitution, 3rd ed., § 1452.

<sup>5</sup> *Federalist*, Ed. 1830, p. 322.

Detail to the Convention on August 6th, 1787, provided that the Senate "shall choose its own president." After nearly three months of deliberation, "no provision had been made for the election of a Vice-President by the States or the people so that they might set up a succession for the Presidency of their own choice." Another part of the same draft declared: "the executive power of the United States shall be vested in the President of the United States, and his title shall be 'His Excellency.'" Following that was a clause providing that a vacancy in the Presidency should be filled by the president of the Senate, but only until the legislature should elect another President. Later, when the question of creating a council for the President was under discussion, Mr. Ellsworth supposed that the president of the Senate would be a member of the council, but nothing came of this. In further effort to find something for the Vice-President to do, Charles Pinckney suggested that he be keeper of the great seal of the United States.<sup>6</sup> This last proposal was doubtless due to the parallel that sometimes the presiding officer in the House of Lords is the lord keeper of the great seal.

An early attempt to write into the basic law the inviolate tradition that the President of the United States shall not, during his term of office, set foot on foreign soil, is found in Hamilton's proposal that the president of the Senate become President until the appointment of another President or until the President should return into the United States. If he went beyond the boundaries of the country without the consent of the Senate, he was to "abdicate" the Presidency.<sup>7</sup> It is significant that Hamilton's plan also made provision that the chief executive be styled "Governor of the United States," and this fact, coupled with his reference in a preceding paragraph to the analogy between the lieutenant-governorship and the Vice-Presidency, indicates how strongly the members of the Convention may have been influenced by that analogy. Moreover, seven of these delegates had been governors of states.<sup>8</sup>

As late as August 27th, there was objection to permitting

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<sup>6</sup> Townsend, *Our Constitution*, p. 127.

<sup>7</sup> Taylor, *Origin and Growth of the American Constitution*, p. 564.

<sup>8</sup> Beard, *The Supreme Court and the Constitution*, p. 87.

the president of the Senate to succeed to the Presidency in case of vacancy and it was suggested that the President's Council (which was never established) appoint the successor until one could be elected. On September 4th, the Committee on Style reported a provision for the election of a Vice-President, who should also be president of the Senate. It is a curious commentary, considering the conspicuous unimportance of the Vice-Presidency in the actual administration of the government, that in the Convention there was strong objection to vesting him even with the duty of presiding over the Senate.<sup>9</sup>

Mr. Gerry, on September 7th, was thorough-going in his opposition to the lately suggested office, saying that "we might as well put the President himself at the head of the legislature. The close intimacy that must subsist between the President and Vice-President makes it absolutely improper." On September 15th, Gerry presented a statement of eight reasons for withholding his signature from the completed Constitution, the eighth of which was "The Vice-President being made head of the Senate."<sup>10</sup> <sup>11</sup> A firm adherent of the doctrine of the separation of powers, Gerry felt that to forbid the gavel of the Senate to the Vice-President would be to divorce more thoroughly the executive from the legislative department.<sup>12</sup>

Gouverneur Morris sagely replied to Gerry that "the Vice-President will be the first heir apparent that ever loved his father." Somewhat isolated have been the instances in which any relationship touching intimacy has existed between these illustrious officers who more generally have maintained toward each other a respectful distance. More often the Vice-President is supposed to be a disconsolate contingent remainderman, not hopeful of attaining his expectancy. One of the most popular political philosophers, Mr. Dooley, is said to have been of the opinion that the only duty of the Vice-President is to inquire after the health of the President. Mr. Morris added "if there should be no Vice-President the president of the

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<sup>9</sup> Townsend, *Our Constitution*, p. 127.

<sup>10</sup> Townsend, *Our Constitution*, p. 127.

<sup>11</sup> Elliott's *Debates*, 2nd ed., Vol. V, p. 553.

<sup>12</sup> Townsend, *Our Constitution*, p. 127.

Senate would be temporary successor which would amount to the same thing.”<sup>13</sup>

Edmund Randolph, of Virginia, another member of the Convention who did not sign the Constitution, likewise opposed making the Vice-President president of the Senate.<sup>14</sup>

Roger Sherman, of Connecticut, “saw no danger in the case. If the Vice-President were not to be president of the Senate he would be without employment and some member by being made president must be deprived of his vote, unless when an equal division of votes might happen in the Senate which would be seldom.”<sup>15</sup>

Hugh Williamson, of North Carolina, “observed that such an officer as Vice-President was not wanted. He was introduced merely for the sake of a voluntary mode of election which required two to be chosen at the same time.”<sup>16</sup>

George Mason, another eminent Virginian whose signature was not appended to the Constitution, “thought the office of Vice-President an encroachment on the rights of the Senate and that it mixed too much the legislative and the executive, which ought to be kept separate as possible.”<sup>17</sup>

He entertained grave fear as to the menace of the office, for he reiterated his opposition in the Virginia Convention, met to consider the ratification of the Constitution. He said:

“The Vice-President appears to me to be not only an unnecessary but a dangerous officer. He is contrary to the usual course of parliamentary proceeding to be president of the Senate. \* \* \* The state from which he comes may have two votes when the others will have but one. Besides, the legislative and executive are hereby mixed and incorporated together. I cannot, at this distance of time, foresee the consequences, but I think that in the course of human affairs he will be made a tool of in order to bring about his own interest and aid in overturning the liberties of his country.”<sup>18</sup>

Finally, on the question “Shall the Vice-President be ex of-

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<sup>13</sup> Elliott's Debates, 2nd ed., Vol. V, p. 522.

<sup>14</sup> Elliott's Debates, 2nd ed., Vol. V, p. 522.

<sup>15</sup> *Ibid.*, p. 522.

<sup>17</sup> *Ibid.*, p. 522.

<sup>16</sup> *Ibid.*, p. 524

<sup>18</sup> *Ibid.*, Vol. III, p. 486.

ficio president of the Senate?" the decision was in the affirmative, by a rate of eight to two. In the votes by states, those voting "aye" were: New Hampshire, Massachusetts, Connecticut, Pennsylvania, South Carolina, Georgia, Delaware and Virginia. Those voting "no" were: New Jersey and Maryland. North Carolina was absent.<sup>19</sup> The Vice-Presidency, as now constituted, was created by a vote of ten to one.<sup>20</sup> It is interesting to conjecture whether this result would have been effected in case such radicals as Henry, Jefferson and Samuel Adams had been as conspicuously present in the convention as they were conspicuously absent from it.

Would that wisest of our statesmen have favored the Vice-Presidential office? Unfortunately, Mr. Jefferson's comments afford little light as to his views on the propriety of the position.

After he had been chosen the second Vice-President, he wrote to James Madison in 1797:

"As to my participating in the administration, if by that he (President Adams) meant the executive cabinet, both duty and inclination will shut that door to me. \* \* \* as to duty, the Constitution will know me only as a member of the legislative body and its principle is that of a separation of legislative, executive and judicial functions except in cases specified. If this principle be not expressed in direct terms, yet it is clearly the spirit of the Constitution, and it ought to be so commented and acted upon by every friend to free government."<sup>21</sup>

No one was more quick to realize the unimportance of the place than the Sage of Monticello, for when it had been tendered to him, he wrote: "It is the only office in the world about which I am unable to decide in my own mind whether I had rather have it or not have it."<sup>22</sup> In satirical vein he uttered another comment, which holds consolation for the disappointments of the Vice-Presidency, when he wrote Benjamin Rush in 1797, "a more tranquil and unoffending station could not have been found for me nor one so analogous to the dis-

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<sup>19</sup> Ibid, Vol. V, p. 522.

<sup>20</sup> Story on the Constitution, 3rd ed., § 1450.

<sup>21</sup> The Writings of Thomas Jefferson, Vol. IX, p. 368.

<sup>22</sup> Ibid, p. 358.



positions of my mind. It will give me philosophical evenings in winter and rural days in the summer." <sup>23</sup>

From time to time has recurred the suggestion that the Vice-President be invited to attend the Cabinet meetings in order that he may familiarize himself more closely with the affairs of state and become a better equipped potential President, but, judging from the precedents, he has been about as welcome there as a death's head. Mr. Jefferson notes probably the sole instance in which the Vice-President has attended a Cabinet meeting, and even in this case the President was not present. "Before the President (Washington) set out on his Southern tour in April, 1791, he addressed a letter of the 4th of that month from Mt. Vernon to the Secretaries of State, War and Treasury and desiring that if any serious and important cases should arise during his absence they would consult and act on them. And he requested that the Vice-President (John Adams) be consulted. This was the only occasion on which that officer was ever required to take part in a Cabinet question." <sup>24</sup> There was actually one such consultation at this time. <sup>25</sup>

The views of two other men who, like Jefferson, were to rise to the Chief Magistracy, were given in the Virginia Convention. They were James Madison, who had been a member of the Constitutional Convention, and James Monroe.

Mr. Madison said:

"I think there are some peculiar advantages incident to this office which recommend it to me. There is a great probability this officer will be taken from one of the largest states and, if so, the circumstance of his having an eventual vote will be so far favorable. The consideration which recommends it to me is that he will be the choice of the people at large. \* \* \* There is much more propriety in giving this office to a person chosen by the people at large than to one of the states who is only the choice of the legislature of one state. His eventual vote is an advantage too obvious to be commented upon." <sup>26</sup>

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<sup>23</sup> Ibid, p. 374.

<sup>24</sup> Writings of Thomas Jefferson, Vol. I, p. 278.

<sup>25</sup> Ibid.

<sup>26</sup> Elliott's Debates, 2nd ed., Vol. III, p. 487.

Mr. Monroe observed:

"The Vice-President is an unnecessary officer. I can see no reason for such an officer. The Senate might of their own body elect a President who would have no dangerous influence. He is to succeed the President in case of removal, disability, etc., and is to have the casting vote in the Senate. This gives an undue advantage to the state he comes from and will render foreign powers desirous of securing his favor, to obtain which they will exert themselves in his behalf. I am persuaded that the advantages of his information will not counterbalance the disadvantages attending his office."<sup>27</sup>

Consideration of the contemporary views of the members of the Constitutional Convention explains why the Vice-President has so little to do. The office was created without power and simply as a method of providing a successor to the Presidency who had been chosen by the people.<sup>28</sup> The fear of its original opponents that the incumbents of the office might exercise undue and pernicious influence in government and might fall prey to foreign nations was not justified, but that other fear of a member of the Convention, Gorham of Massachusetts that "a very obscure man may arrive at the appointment" has too often been realized.<sup>29</sup>

The gradual lessening of the dignity and importance of the theoretically second place in the national administration may definitely be traced to the beginning of the last century. Even before that period "The Vice-President was considered a superfluous officer, especially by the Anti-Federalists."<sup>30</sup> In 1803 there was "a strong effort made to abolish the office of Vice-President as superfluous."<sup>31</sup> The original provision in the Constitution regarding elections to the Presidency and Vice-Presidency compelled each elector to vote for two candidates for President. Under this system the person receiving the highest number of votes became President and the next highest Vice-Presi-

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<sup>27</sup> Ibid, p. 489.

<sup>28</sup> Townsend, *Our Constitution*, p. 127.

<sup>29</sup> Ibid, p. 176.

<sup>30</sup> Thorpe, *Short History of the Constitution*, p. 107.

<sup>31</sup> Ibid, p. 116.

dent. Votes for President were not distinguished in the ballots from those for Vice-President. So it came about in 1800 that Jefferson and Burr, belonging to the same party tied in the Presidential election so that the contest was thrown for decision into the House of Representatives. This result was so far from what the electorate intended that the Twelfth Amendment to the Constitution was passed in 1803, whereunder our present system of separate voting was established. "This amendment," said Judge Story, more than half a century ago, "has certainly greatly diminished the dignity and importance of the office of Vice-President. Though the duties remain the same, he is no longer a competitor for the Presidency and selected as possessing equal merits, talents and qualifications with the other candidate."<sup>32</sup> Indeed, he has been in later days usually of distinctly inferior mould.

In the comparison of the Vice-Presidency with the Speakership of the House there is found an illuminating commentary upon the real decadence of the former place. As the presiding officer of the upper chamber has declined in prestige and power, the presiding officer of the lower chamber has been accorded great increase in those attributes. Prof. Albert Bushnell Hart well says that "either the Vice-President or the president pro tem may vote on a tie, but each acts only as a moderator and has no special power through his office. Quite different is the status of the Speaker of the House, who has become to be second in political dignity only to the Presidency of the United States."<sup>33</sup> A similar observation is that of Viscount Bryce: "The Vice-President of the United States has become even more insignificant than the Constitution seemed to make him. On the other hand the Speaker of the House, whom the Constitution mentions only once and on whom it bestows no powers, has now secured one of the leading parts of the piece and can affect the course of legislation more than any other single person."<sup>34</sup> Yet the Speaker, who used to be third in the Presidential succession, is now practically removed from it, and the failure of

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<sup>32</sup> Story on the Constitution, 3rd ed., § 1469.

<sup>33</sup> Hart, *Actual Government*, p. 231.

<sup>34</sup> Bryce, *The American Commonwealth*, ed. 1910, p. 402.

Champ Clark to secure the Presidential nomination at Baltimore in 1912, after he had received a majority, lends added emphasis to the tradition that the speakership is not a stepping stone to the Presidency. The case of James K. Polk is the solitary exception. It should be noted here that but four men who have held the office of Vice-President have been elected to the Presidency—John Adams, Jefferson, Van Buren and Roosevelt.

Considering them together, it can hardly be held that the administrations of the Vice-Presidents who have succeeded to the Presidency have been especially happy. A short but incisive criticism is that of Mr. Bryce, who points out that "in the first and third of these instances (Tyler and Johnson) the succeeding Vice-President has reversed the policy of his predecessor and become involved in a quarrel with the party which elected him, such as never yet has broken out between a man elected to be President and his party."<sup>36</sup> This statement should be qualified by the inclusion of President Cleveland who (in his second term) was decidedly out of harmony with the party which elected him. Tyler, who justly resisted the attempt of his political opponents to style him "Acting President," was a Nullifier who represented on the Whig ticket a faction united with the Whigs on the defunct issue of opposition to executive usurpation. He became an avowed Democrat and a candidate for the Democratic nomination for the Presidency.<sup>37</sup> A far greater man, and a better President than he has been deemed by some historians, he was nevertheless emphatically "at outs" with the dominant element of his party and was the center of much discord and dissension within his party lines. Fillmore, succeeding Taylor, did not, in all respects, support the policies of his predecessor and, through his influence, the Clay Compromise Bill, which Taylor had firmly opposed, was revived and enacted. Johnson, Lincoln's successor, was a strong Union man who had never borne the Republican party name. Fortunate as it was for the South that he was President in the first era of Reconstruction, it must be remembered that he was in constant bitter

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<sup>36</sup> Bryce, *The American Commonwealth*, ed. 1910, p. 51.

<sup>37</sup> Mack, *Party Organization and Machinery*, p. 28.

conflict with his party during his term and by a single vote escaped removal from the Presidency after his impeachment, the only proceeding of the sort against an American chief executive. Arthur, successor of Garfield, resembled Fillmore in that he immediately reversed the most pronounced policy of his predecessor in supporting the "Stalwarts" whom Garfield had so vigorously repelled. Roosevelt, a regular Republican President with a Progressive tinge, later seeking "a third cup of coffee," divided the Republican party within three years after he had left the White House. "I greatly disliked the office of Vice-President," he admits in his autobiography, but omits a similar declaration as to the Presidency.<sup>38</sup>

The nomination of a Vice-Presidential candidate is now dictated almost entirely by party expediency. Capacity of the candidate for the possible assumption of the Presidency in the event of a vacancy is wellnigh unconsidered, while his sectional claims upon the electorate weigh down the scales. Frequently it comes about that "the very obscure man," of whom Gorham spoke in the Constitutional Convention, does "arrive at that appointment," sometimes virtually without premeditation by the party, the person honored, or the American people. If the latter have aught of knowledge about the Vice-Presidential candidate, usually it does not concern his administrative ability or the principles and policies which he embodies if, indeed, he stand for any—but rather with the particular tint of his mustachios, his sartorial extravagances, his buttermilk proclivities, or his innocuous views on the greatness of goodness or the glories of the republic, expressed for newspaper reporters sparring for space.

Again we adopt the views of the author of "The American Commonwealth:"

"The Vice-President's office is ill-conceived. His only ordinary function is to act as chairman of the Senate, but, as he does not appoint the committees of that house, and has not even a vote (except a casting vote in a tie), this function is of little moment. If, however, the President dies or becomes incapable of acting or is removed from office, the Vice-President succeeds to the Presidency. What is the re-

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<sup>38</sup> Autobiography of Theodore Roosevelt, p. 332.

sult? The place being in itself unimportant, the choice of a candidate for it excites little interest and is chiefly used by the party managers as a means of conciliating a section of their party. It becomes what is called a 'complimentary nomination.' The man elected Vice-President is, therefore, rarely, if ever, when elected, a man in the front rank, but when the President dies during his term of office, which has happened to five out of the twenty Presidents, this possibly second-class man steps into a great place for which he was never intended. Sometimes, as in the case of Mr. Arthur, he fills the place respectably, sometimes as in that of Andrew Johnson, he throws the country into confusion. He is *aut Cæsar aut nullus*.<sup>39</sup>

"When a man for the Presidency has been found, the Convention proceeds to similarly determine its candidate for the Vice-Presidency. The inferiority of the office and the exhaustion which by this time has overcome the delegates makes the second struggle a less exciting one. Frequently one of the defeated aspirants is consoled by this minor nomination, especially if he has retired at the nick of time in favor of the rival who has been chosen.<sup>40</sup>

"The convention which selects the party candidates usually gives the nomination for this position (the Vice-Presidency) to a man in the second rank, sometimes as a consolation to a disappointed candidate for the Presidential nomination, sometimes to a friend of such a disappointed candidate in order to 'placate' his faction, sometimes to a person from whom large campaign funds may be expected, sometimes as a compliment to an elderly leader who is personally popular, sometimes perhaps even to a man whom it is sought to shelve for the time being. If the President happens to die, a man who may be of no great personal account steps into the chief magistracy of the nation."<sup>41</sup>

It is evident that the Vice-Presidency is not the dignified and exalted position in practice that it was in the theory of the builders of our fundamental law. It was intended and ordained that it should be filled by the vote of the people, but it has become an office to which they devote no attention, because they are not interested in it and do not contemplate it as important. It does not appeal to popular political concern. As fully as they may be

<sup>39</sup> Bryce, *American Commonwealth*, ed. 1910, Vol. I, p. 300.

<sup>40</sup> *Ibid.*, Vol. II, p. 184.

<sup>41</sup> *Ibid.*, Vol. I, p. 51.

informed as to the policies which Presidential candidates represent, they are invariably ignorant of the personal convictions of the nominees for the second place on the ticket. The former swing around the country in continuous public exposition of their views, while the latter remain at home for the greater part of the campaign, and make a few speeches of no political value. The Vice-President is not looked upon as a party leader and is not held to that accountability in political leadership which is required of the President. From his entrance to his exit in national politics, the Vice-President is completely overshadowed and obscured by the man highest up.

Moreover, the historical analogy for the Vice-Presidency does not find strong support in our political experience. Eleven of the States—Florida, Georgia, Maine, Maryland, New Jersey, New Hampshire, Oregon, Tennessee, Utah, West Virginia and Wyoming—do not contain in their governments the distinct office of lieutenant-governor, the usual provision being that, in case of vacancy, the president of the Senate or the secretary of state shall succeed to the governorship.

A foremost advocate of progressive government at the present, Richard S. Childs, thus comments on the unimportance of the lieutenant-governorship:

"Our natural sentiment favors the selection by the people of the man who takes the governor's place in case of death. The average American thinks of the post as one which the people should fill by election. I fancy that most citizens in New Jersey, where the successor of the governor is not elective, would quietly applaud a movement in a constitutional convention to provide for an elective lieutenant-governor like other states.

"The plan of requiring the people to choose lieutenant-governors has been tried. Has it worked? Do the people select their lieutenant-governors?

"I think not. \* \* \* Did you have anything to say about his selection before the matter was settled for you by the powers of the party machine? Did the question agitate the public mind as the selection of the gubernatorial candidate did? Did the public opinion which named the eligible list for the governorship name also an eligible list for lieutenant-governor?

"Isn't it true that often the people of your state have compelled the nomination of a champion of certain policies and ideals for the governorship, and have indolently permitted the party to name on the same ticket for lieutenant-governor some party hack whose policies and ideals were just the opposite? How often have the people elected a lieutenant-governor whom they would not have approved of for a moment if during the campaign a serious illness of his superior had brought him out of his obscurity into 'that fierce light which beats upon the throne?'"

"The election of a man whom the people would not favor if they knew him, demonstrates that the voters have not functioned at the polls as the constitutional convention wanted them to. The intentions of those who devised the plan were good, but, when tried, the plan did not result in popular control. There is no appealing from the test of practice to reason and theory. The office is not visible.

"In offering a theory to explain the results of the test of practice, I am adding only non-essential comment for the comfort of the stubborn reasoner who says 'Drat it—the idea ought to work anyhow!' No. It ought not to be expected to work, in view of the fact that one vital factor in the plan is a mass of human beings who, as at present constituted, do not interest themselves in uninteresting things except under compulsion. And the people are too big to be spanked.

"Should we really be disturbed if the death of a lieutenant-governor at the beginning of his term left the succession to an official whom the people did not elect?"<sup>42</sup>

Not only do these observations apply with equal force to the Vice-Presidency, but the present-day objections to the unimportance and unnecessariness of that office apply equally to the lieutenant-governorship.

It is not essential that the Vice-President should preside over the Senate. In that respect he is a superfluous personage and this duty might more properly, more wisely, and more safely devolve upon a president of the Senate, elected, like the present president pro tempore, from its membership by the Senate and not by direct vote of the people. In the normal situation, the president pro tempore of the Senate is a far abler parliamen-

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<sup>42</sup> Childs, *Short Ballot Principles*, p. 113.



tarian and a far better equipped and more judicial presiding officer than is the Vice-President. So august a body as the upper house usually chooses as its president pro tempore a member profoundly versed in parliamentary practice and of consummate poise. Take the case of Senator Frye of Maine who held this place for sixteen years through the terms of five Vice-Presidents. It is, indeed, open to question that either of those Vice-Presidents, Stevenson, Hobart, Roosevelt, Fairbanks and Sherman, in any sense equalled Frye as a presiding officer. The president pro tempore is customarily a Senator of long experience and capacity for the place, who has often had additional parliamentary experience in the lower chamber. The Vice-President is a transient; the president pro tempore, a veteran. The presidency pro tempore has been filled by men of such high ability and reputation as Richard H. Lee, Wm. H. Crawford, Nathaniel Macon, Hugh L. White, Wm. R. King, James M. Mason, A. G. Thurman, Thomas F. Bayard, David Davis, George F. Edmunds, John Sherman, and Wm. P. Frye.

If it be argued that the president of the Senate should have no vote save in case of a tie, let it be answered by the proposition that there is no fundamental reason for thus limiting the voting power of the presiding officer of that body. The states are equal in power and dignity in the Senate and the deciding vote of the Vice-President is an unjustifiable anomaly, since he represents no state. There is no more reason why the presiding officer of the upper house should be confined to voting in the event of a tie than there would be for so limiting the presiding officer of the lower house who, as a matter of fact, votes whenever he pleases, since he is a constituent member of the body. The ancient jealousy of the states toward one another exists no longer. The states have nothing to fear from one another; they have nothing to fear if the president of the Senate were one of the Senators, instead of a rank outsider. Each state has a voice in the Senate equal to that of any other state and there the matter should rest, without introducing the foreign element of a deciding vote by one responsible to no state. It is as reasonable to presume that a tie should not be broken as it is to presume that it should be broken. If the states be equally di-

vided, why not follow the parliamentary rule of a negative result? Why not elect a Senator president of the Senate who should vote whenever he pleased with no added power in case of a tie? The Speaker of the House, a far more powerful and influential personage than the Vice-President, does not wield any undue or sinister influence when he votes as a member. Moreover, the president of the Senate has no power over the procedure of that body, such as the speaker has in the House of Representatives and is vested with negligible power as a presiding officer, for the Senate is strictly self-governed.

It is not contended here that the president pro tempore of the Senate should succeed to the Presidency in case of vacancy, although it was formerly provided that he should be third in the succession. With a change of but one vote in the impeachment verdict after the trial of Andrew Johnson, Benjamin F. Wade, president pro tempore of the Senate, would have succeeded to the Presidency in 1868, and if he had so been elevated, perhaps the bitterness of reconstruction in the South would have been hastened and deepened, for he was unfriendly to that lately conquered domain. It is undeniable that the president pro tempore of the Senate, by reason of his long familiarity with the public business and experience in government, is normally far better equipped for the Presidency than the Vice-President, but the insuperable objection to placing the former in the second place in the Presidential succession is that the majority of the Senate which elected him might belong to the party opposite to that which elected the President, and so it might result that a President of one party would be succeeded by a President of another in case of a vacancy, although it was the manifest will of the electorate that the party which elected the President should remain in control of the Administration for four years. Under our system of party government such a result would work an upheaval, and the possibility of such a contingency bars the president pro tempore of the Senate from the succession.

Assuming the abolition of the Vice-Presidency, who, then, should succeed the President, in the event of a vacancy? The secretary of state. Move him from the third to the second place in the Presidential succession. It is provided in the Act

of 1886 establishing the succession to the Presidency that the secretary of state shall be next in line after the Vice-President.

In the first half-century of the republic, the secretaryship of state was generally regarded as the logical stepping stone to the chief magistracy, and thence rose Jefferson, Madison, Monroe, John Quincy Adams, Van Buren and Buchanan to the first position. Almost without exception, the secretaries of state have been among the foremost public men of the country in their time. Besides those who afterward became Presidents, consider this lustrous roster of some of the past holders of the state portfolio: Edmund Randolph, John Marshall, Clay, Forsyth, Webster, Hugh S. Legare, Calhoun, Clayton, Everett, Cass, Jeremiah S. Black, Seward, Evarts, Blaine, Bayard, Olney, John Sherman, Hay, Root, who may yet be the nominee of his party for the Presidency, and Bryan, who thrice already has been his party's standard bearer. As a body, those who have been seated in the chair at the right of the President at the Cabinet table have rendered far more distinguished services to the nation, have been far better fitted for the broad duties of the Presidency, and have held higher places in their country's history than the twenty-eight men whom God and the parties have placed in the Vice-Presidential chair. If in our past the secretary of state had held the second place in the administration, we should have had President Webster instead of Tyler, President Clayton instead of Fillmore, President Seward instead of Johnson, President Blaine instead of Arthur, and President John Hay instead of Roosevelt.

The obvious objection and the strongest to this proposed change is that the secretary of state is not elected by the people, but is appointed by the President. True, but what of it? Is not the President himself elected by the people and held responsible by them and to them for his appointments? Does not the Act of 1886 establishing the Presidential succession expressly provide that no Cabinet officer shall succeed to the Presidency whose nomination has not been confirmed by the Senate or who does not possess the qualifications for the Presidency prescribed by the Constitution? Herein is a potent check on the appointing power, to be exercised, if necessary, by the higher and more

conservative branch of the national legislature. Yet the most powerful check upon the President would be the pressure of public opinion, for the President would not, in the face of adverse popular sentiment, name for the second place in the government an incapable or an undesirable citizen. The chances strongly favor the assertion that the President would select a far abler man for the second place than would the nominating party convention, for, while the President is filling that position, he is also selecting the head of the Department of State, a post which demands a high order of capacity for public service. If the second place were to be filled by the President public concern would focus upon this supreme act of the chief magistrate. Instead of a Vice-President chosen in the reaction and aftermath of a convention with little reference to his ability as a potential President, we should have a possible successor to the Presidency deliberately and thoughtfully named after a four month's period of meditation by the President-elect. His choice would, among other qualities, surely have that of thorough accord with the policies of his party.

Too massive is the party convention to be held to accountability by the people, but an individual can be held to the strictest accountability by them. "Government in the light is safer than government in the dark. And as only in light can the people see to control their government, government in the light alone is popular government."

What thought take the people for the Vice-Presidency? In that office they never have been interested, are not interested, and never will be interested. The people in the states where the second place in their government is not filled by popular election have not rebelled nor murmured against such a situation. They have interposed no objection to it and they have not contemplated it as imperiling or depriving them of their sacred liberties, nor have they proclaimed it a departure from the principles established by the fathers of the Constitution. The American people assuredly do not regard the liberty to elect the Vice-President as one of the liberties for the maintenance and defense of which the nation was brought forth. If the fundamental law should be altered to the end that the second place in the national

government should be filled by appointment of the chief magistrate, it is extremely doubtful whether the people would be sufficiently interested in the office to register adequately their will upon the innovation.

It is in accordance with the sound and progressive principles of the short ballot, founded upon experience in American misgovernment, that this new order in the Presidential succession is here advocated. Three of those basic principles are here invoked:

First: Only those offices should be elective which are important enough to attract and deserve public examination and public interest.

Second: All offices that determine no policies large enough to attract and deserve public interest should not be filled by popular election.

Third: All offices should be appointive which are not of enough importance, or which determine no policies large enough, to attract and deserve public examination and interest.

The movement for the short ballot is a new departure in government in the United States, but slowly it is taking hold of the forces which are marshalled against invisible and unpopular government. The short ballot rests on the principle of fixing responsibility instead of diffusing it, of electing a few responsible officers, permitting them to appoint the many subordinates, and then holding the few elected to office to the strictest accountability for all their acts and for the capacity and acts of their appointees. To explain the short ballot to the American people, the Short Ballot Organization was formed in 1911, and its first president was, and one of its most zealous exponents is, the present President of the United States.

*Rion McKissick*

GREENVILLE, S. C.